

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

NHS SYSTEMS, INC., et al.,

Defendants.

CIVIL ACTION

No. 08-2215

MEMORANDUM

On October 1, 2010, the FTC filed a Motion for Summary Judgment Against the NHS/PHS Defendants. Docket No. 136. That motion seeks judgment against ten entity defendants and seven individual defendants. To date, no defendant has responded to the motion, nor has any attorney entered an appearance on behalf of any of these defendants.¹

Because of the complexity of the issues involved and the amount of monetary damages sought (\$6,879,162.22), the court finds it appropriate to send notice to these pro se defendants outlining (1) the requirements of the summary judgment rule and (2) the consequences of not responding. *See Ruotolo v. IRS*, 28 F.3d 6, 8 (2d Cir. 1994) (per curiam) (“[T]he failure of a district court to apprise pro se litigants of the consequences of failing to respond to a motion for summary judgment is ordinarily grounds for reversal.”); *Timms v. Frank*, 953 F.2d 281, 286 (7th Cir. 1992) (“[A]ll pro se litigants, not just

¹ Cove & Associates, P.A. had previously represented defendants NHS Systems, Inc.; Physician Health Service, LLC; Harry Bell, Jr.; and Donna Newman. On July 23, 2009, this court granted Cove & Associates’ motion to withdraw as counsel. Docket No. 101.

prisoners, are entitled to notice of the consequences of failing to respond to a summary judgment motion. . . . [T]his notice should include both the text of Rule 56(e) and a short and plain statement in ordinary English that any factual assertion in the movant's affidavits will be taken as true by the district court unless the non-movant contradicts the movant with counter-affidavits or other documentary evidence.").²

Accordingly, a notice and order shall be transmitted to each of the NHS/PHS defendants explaining the consequences of failing to respond to a summary judgment motion.

² The Third Circuit has not taken a position either way on the necessity of providing such notice to pro se litigants.